AO 91 (Rev. 11/11) Criminal Complaint

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AUG 01 2016

MATTHEW J. DYKMAN
CLERK

# UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America
v.
ASHLEY HERRERA

Defendant(s)

Case No. 16-MJ-3038

## CRIMINAL COMPLAINT Amended

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 12 and 16, 2015 in the county of Santa Fe in the District of New Mexico, the defendant(s) violated:

| *Code Section* | *Offense Description* |
|---|---|
| 18 USC 2113(a) | Attempted Bank Robbery |
| 18 USC 1951 | Interference with Commerce by Threats or Violence |

This criminal complaint is based on these facts:

☑ Continued on the attached sheet.

[signature]
*Complainant's signature*

Samuel Hartman, Special Agent, FBI
*Printed name and title*

Sworn to before me and signed in my presence.

Date: 8-1-16

[signature]
*Judge's signature*

City and state: Albuquerque, New Mexico

Kirtan Khalsa U.S. Magistrate Judge
*Printed name and title*

In the United States District Court

District of New Mexico

UNITED STATES OF AMERICA )
)
VS. )
)
ASHLEY HERRERA )
Year of Birth 1988 )
SSAN: XXX-XX-2459 )

AMENDED AFFIDAVIT

I, the undersigned, being duly sworn, hereby depose and state as follows:

1. I, Samuel Hartman, am a Special Agent of the Federal Bureau of Investigation (FBI), and have been so employed for seven years. I am currently assigned to the Albuquerque Field Office to investigate violations of Federal law, Including Title 18, United States Code, Section 2113(a), Bank Robbery, and Title 18, United States Code, Section 1951, Interference with Commerce by Threats or Violence. The information set forth in this affidavit has been derived from my own investigation or communicated to me by other sworn law enforcement officers.

2. On August 12, 2015, at approximately 2:30pm, an unknown female (UF) attempted to rob the Bank of America, located at 4037 Rodeo Road, Santa Fe, New Mexico 87507, by force, intimidation, and threatening the use of violence. Specifically, the UF handed a note to the teller that read "I HAVE A GUN DON'T YELL OR PUSH ANY BUTTONS OR ILL SHOOT GIVE ME ALL THE MONEY IN THE TOP DRAWER!!!!! WANNA LIVE OR DIE TODAY?!!!!" Bank of America is a federally insured institution.

3. The UF was described as Caucasian or Hispanic, in her mid-twenties, long black or dark brown hair, short, wearing a white baggy t-shirt, dark blue sweat pants, large frame

sunglasses, and carried a black and white zigzag patterned purse. A review of the surveillance video provided by Bank of America revealed that the UF, as described above, entered the bank at 2:32pm. The UF went straight to the teller counter, reached into her purse, pulled out a yellow note, and handed it to the teller. After she handed the note to the teller, the subject put her right hand into her purse gesturing that she indeed had a gun as threatened. After a few minutes, she takes her hand out of the purse, and then puts it back in. At 2:36pm she takes her hand out of the purse and exits the bank.

4. The FBI responded to the crime scene, conducted interviews with the witnesses, and collected evidence. One of the items collected was the demand note that the subject handed to the victim bank teller. The FBI ascertained that four additional people, besides the subject, had touched the note without wearing protection, thus leaving their fingerprints and DNA on the note. The Santa Fe Police Department, which also responded to the crime scene, took elimination DNA samples and fingerprints from the four individuals. The exemplar samples were provided to the FBI for submission into evidence and the laboratory for testing along with the demand note.

5. On 08/16/2015, your affiant learned of an armed robbery of the pharmacy at Walgreens located at 3298 Cerrillos Road, Santa Fe, New Mexico. The robbery took place at approximately 1:40am by an unknown female at knife point. The subject was described as Caucasian or Hispanic female, in her twenties, wearing a red shirt, dark gray or black hoodie with jeans, with brown hair pulled back, black sneakers, and carrying a white and black zigzag patterned purse.

6. According to the pharmacist at the Walgreens, the subject jumped over the pharmacy counter, and held a knife to the pharmacist. The suspect then stole multiple bottles of prescription pills of Oxycontin and Oxycodone, and placed them in her purse. She then jumped back over the counter and fled the store on foot.

7. A review of the surveillance video provided by Walgreens revealed a UF entering the Walgreens at around 1:31am. The UF appeared to be white or Hispanic, with dark hair

pulled up in a bun, wearing a gray hooded sweatshirt with a red shirt underneath, black pants, and carrying a white and black zigzag patterned purse. Shortly after entering, the UF was observed sitting down in the pharmacy waiting area. At 1:43am, all employees and customers appear to have vacated the pharmacy area to include the UF. At 1:45am the UF can be observed on the "Rx Fill Counter" camera climbing into the pharmacy. The pharmacist moved away from the female, and backed his way down the pharmacy counter. Then, he grabbed four bottles of medication and placed them in front of the UF. The UF appeared to be holding an object in her right hand and placed the four bottles in her purse. After taking the bottles, she jumped the counter and ran out of the store.

8. A copy of a DEA form 106, "Report of Theft or Loss of Controlled Substances," submitted by Walgreens after the robbery detailed the stolen prescription bottles. The report stated that the following schedule 2 controlled substances were stolen by way of armed robbery: 1 bottle of Oxycodone HCL 30mg tablets with a quantity of 20, 1 bottle of Oxycodone-Acetaminophen 10-325mg tablets with a quantity of 97, and 1 bottle of Oxycontin 10mg tablets with a quantity of 124. The total value of the stolen controlled substances was $664. Walgreens is a national chain with stores throughout New Mexico and in other states, and the robbery therefore unlawfully obstructed and affected interstate commerce.

9. In January 2016, the FBI received information from a confidential informant (CI) that Ashley Herrera was the individual that attempted to rob the bank, and then robbed the Walgreens Pharmacy. The CI had provided law enforcement reliable information in the past. According to the CI, Herrera used a demand note at the bank, and a fake weapon at the pharmacy. After robbing the pharmacy, Herrera told the CI she got away with four bottles of Oxycodone pills. The CI also noted that Herrera, as of January 2016, was still carrying the white and black zigzag patterned purse that was seen in the surveillance video of the bank robbery and the Walgreens robbery.

10. On April 12, 2016, the FBI Albuquerque, Santa Fe Resident Agency Office, received a laboratory report from the Latent Print Operations Unit at the FBI Laboratory in

Quantico, Virginia. The report outlines the five known fingerprint records that were used for comparisons to prints found on the demand note. The five fingerprint records belonged to the four individuals that touched the demand note after the UF gave the note to the teller, and before the FBI took possession of the evidence. The fifth fingerprint record used for comparison belonged to Ashley Herrera, which was already stored in a FBI database. The analysis of the demand note detected four latent prints of value. Two of the fingerprints, one each, belonged to two of the individuals that touched the note before the FBI possessed the evidence. The other two latent prints of value found on the demand note belonged to Ashley Herrera.

11. Based on the above, your affiant believes probable cause exists that Ashley Herrera, did, by force, violence, and intimidation, attempt to rob the Bank of America, 4037 Rodeo Road, Santa Fe, New Mexico 87507, on August 12, 2015 in violation of 18 U.S.C. Section 2113, and interfered with commerce by threats and violence in violation of 18 U.S.C. 1591, by robbing the Walgreens Pharmacy, 3298 Cerrillos Road, Santa Fe, New Mexico, at knife point on August 16, 2015.

I swear that this information is true and correct to the best of my knowledge and belief.

Respectfully submitted,

Samuel T. Hartman
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 1st day of August, 2016.

Honorable Kirtan Khalsa
United States Magistrate Judge